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UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

**MARTIN EVANS, ET AL.**

**CIVIL ACTION NO. 10-1916**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**INTERNATIONAL PAPER CO., ET AL.**

**MAG. JUDGE KAREN L. HAYES**

**RULING**

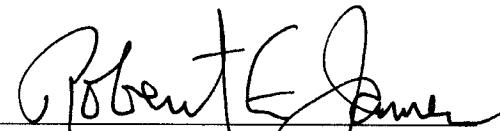
Pending before the Court is Defendant International Paper Co.'s ("IP") "Motion to Dismiss Plaintiffs' Class Action Petition" [Doc. No. 9]. On February 9, 2011, Plaintiffs filed an Opposition [Doc. No. 14]. On February 22, 2011, IP filed a Reply [Doc. No. 18].

On March 24, 2011, the Magistrate Judge issued a Report and Recommendation recommending that IP's motion to dismiss be granted in part and denied in part [Doc. No. 21]. On April 7, 2011, Plaintiffs and IP filed objections to the Report and Recommendation [Doc. Nos. 29 & 30].

The Court agrees with and ADOPTS the Report and Recommendation with one exception.

Plaintiffs objected to the Magistrate Judge's finding that "[o]ccupational hearing loss occurs simultaneously with exposure to excessive noise, and is complete when the exposure ceases." [Doc. No. 21, p. 16]. While the Court agrees with the Magistrate Judge's conclusion that prescription does not compel a 12(b)(6) dismissal of Plaintiffs' claims, the Court DECLINES TO ADOPT this specific finding from the Report and Recommendation.

MONROE, LOUISIANA, this 19 day of May, 2011.

  
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ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE